

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RAYMOND C. PERRY,	:	NO. 1:07-CV-00947
	:	
Plaintiff,	:	
	:	
v.	:	OPINION AND ORDER
	:	
FRANK JOSEPH, et al.	:	
	:	
Defendants.	:	

This matter is before the Court on Plaintiff's Motion for Default Judgment (doc. 12), to which Defendants filed no response.

Defendant Frank Joseph, an investment banker, and Defendants Sean Jordan and Sean Kelly, financial advisors, allegedly misled Plaintiff into entering an agreement under which he would invest \$175,000.00 with Joseph, and be repaid \$190,000.00 plus a ten-percent interest rate (doc. 1). After Defendant Joseph did not honor the contract on March 19, 2007, Defendants Kelly and Jordan acted as sureties in a subsequent agreement, dated March 28, 2007, and in a subsequent addendum, dated May 23, 2007, outlining payment terms (Id.).

Defendants failed to make any payments to Plaintiff under any of the agreements (Id.). Plaintiff filed his Complaint on November 9, 2007, alleging he entered into an investment contract and subsequent agreements with Defendants that Defendants have breached (Id.). Plaintiff further alleges a breach of good faith and fair dealing, unjust enrichment, fraud, a claim for promissory

estoppel, and a claim for payment by Guarantors (Id.). Plaintiff seeks an award of compensatory and punitive damages, as well as his costs and reasonable attorney's fees (Id.).

Defendants have not responded to the Complaint, nor communicated with Plaintiff or his counsel to request additional time to respond (doc. 12). On February 8, 2008, the Clerk entered default on the docket as to Defendants Joseph, Jordan, and Kelly, for failure to plead or otherwise answer (doc. 11). In the instant motion, Plaintiff requests the Court enter a default judgment against Defendants and hold a hearing to determine the proper amount of damages to be awarded Plaintiff (doc. 12).

Having reviewed this matter, the Court finds Plaintiff's unopposed motion well-taken. Inasmuch as the Clerk has entered an entry of default, the posture of this case is such that the Court can properly enter judgment against Defendants. Fed. R. Civ. P. 55(b)(2). The actions of Defendants show they are ignoring Plaintiff's Complaint, that they are in default, they are not defending this action, and that entry of default judgment is appropriate. Id. The Court further finds it necessary to set a hearing on damages in accordance with Rule 55(b)(2)(B).

Accordingly, the Court GRANTS Plaintiff's Motion for Default Judgment (doc. 12), ENTERS Default Judgment against Defendants, and SETS this matter for a hearing on damages at 2:30 P.M. on June 12, 2008. The Clerk is directed to serve copies of

this Order to the Defendants at their addresses, listed on the Complaint.

SO ORDERED.

Dated: April 15, 2008

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge